

ment instead of a notification requirement for a listed project; including an air quality analysis as a mandatory application requirement; requiring emission offsets for a collateral increase of a pollutant for which an area is designated nonattainment; requiring an affidavit of construction for a PCP to ensure that it is properly installed; including more restrictions on the generation of emission reduction credits by a PCP; and including provisions for the removal of a PCP.

IDEM seeks comment on these and any other alternatives for pollution control projects.

Other alternatives identified during this rulemaking will also be considered. The IDEM will work closely with the U.S. EPA and the Air Pollution Control Board to ensure that alternative language satisfies the federal criteria for being approved into the SIP.

If you have questions about the alternatives discussed in this notice, please contact Stacey Pfeffer, Permit Branch, Office of Air Quality at (317) 233-2628 or (800) 451-6027 (in Indiana), or at spfeffer@dem.state.in.us.

Rulemaking Public Meeting Information

IDEM has begun to meet with interested parties to discuss adoption of new NSR requirements. A public meeting was held on March 6, 2003. The minutes from this meeting, any future meetings, and other information regarding this rulemaking can be viewed at IDEM's Air Permit Program Web site at <http://www.IN.gov/idem/air/permits/>. The alternatives listed in this notice were briefly discussed at the March 6, 2003 meeting. Future public meetings will be posted to the website. IDEM will continue to work with all interested parties throughout this rulemaking process.

If you wish to be notified of future meetings, please contact Chris Pedersen, Rules Section, Office of Air Quality at (317) 233-6868 or (800) 451-6027 (in Indiana), or at cpederse@dem.state.in.us.

STATUTORY AND REGULATORY REQUIREMENTS

IC 13-14-8-4 requires the board to consider the following factors in promulgating rules:

- (1) All existing physical conditions and the character of the area affected.
- (2) Past, present, and probable future uses of the area, including the character of the uses of surrounding areas.
- (3) Zoning classifications.
- (4) The nature of the existing air quality or existing water quality, as the case may be.
- (5) Technical feasibility, including the quality conditions that could reasonably be achieved through coordinated control of all factors affecting the quality.
- (6) Economic reasonableness of measuring or reducing any particular type of pollution.
- (7) The right of all persons to an environment sufficiently uncontaminated as not to be injurious to human, plant, animal, or aquatic life or to the reasonable enjoyment of life and property.

REQUEST FOR PUBLIC COMMENTS

At this time, IDEM solicits the following:

- (1) The submission of alternative ways to achieve the purpose of the rule.
- (2) The submission of suggestions for the development of draft rule language.

Mailed comments should be addressed to:

#03-67(APCB) NSR Changes
Chris Pedersen
c/o Rules Section Administrative Assistant
Rule Development Section
Office of Air Quality

Indiana Department of Environmental Management
P.O. Box 6015
Indianapolis, Indiana 46206-6015.

Hand delivered comments will be accepted by the IDEM receptionist on duty at the 10th floor reception desk, Office of Air Quality, Indiana Government Center-North, 100 North Senate Avenue, Indianapolis, Indiana.

Comments may be submitted by facsimile at the IDEM fax number: (317) 233-2342, Monday through Friday, between 8:15 a.m. and 4:45 p.m. Please confirm the timely receipt of faxed comments by calling the Rule Development Section at (317) 233-0426.

COMMENT PERIOD DEADLINE

Comments must be postmarked, faxed, or hand delivered by May 1, 2003.

Additional information regarding this action may be obtained from Chris Pedersen, Rule Development Section, Office of Air Quality, (317) 233-6868 or (800) 451-6027 (in Indiana).

Janet G. McCabe
Assistant Commissioner
Office of Air Quality

TITLE 326 AIR POLLUTION CONTROL BOARD

LEGISLATIVE SERVICES AGENCY OFFICE OF FISCAL AND MANAGEMENT ANALYSIS

301 State House
(317) 232-9855

ADMINISTRATIVE RULE FISCAL IMPACT STATEMENT

PROPOSED RULE: LSA #02-54

DATE PREPARED: Mar 3, 2003

STATE AGENCY: Department of Environmental Management

DATE RECEIVED: Feb 28, 2003

FISCAL ANALYST: Bernadette Bartlett

PHONE NUMBER: 317-232-9586

Digest of Proposed Rule: This rule amends 326 IAC 10-3-1 to delete emission limits for Ispat Inland in Lake County. It also amends 326 IAC 10-4 to change compliance dates, amend emission trading allowances, and add formulas for efficiency programs. The effective date is 30 days after filing with the Secretary of State. This rule also affects Purdue University.

Governmental Entities: See below.

Regulated Entities: This rule affects emissions from two sources that are already subject to regulation: Ispat Inland in Lake County and Purdue University.

Under current rules, Ispat Inland's emissions from some units are controlled under 326 IAC 10-3, which regulates blast furnace gas-fired boilers, while emissions from other units are controlled by 326 IAC 10-4, the emissions trading program. Ispat Inland requested to have the emission limits for all of their boilers moved into the emissions trading program. This rulemaking moves Ispat Inland's blast furnace gas-fired boilers from being subject to flat emission limitations to participation in the emissions trading program. This change will require the company to install and operate continuous emissions monitors (CEMs).

Purdue University has one boiler currently under the emissions trading program and three that were accounted as small boilers of less

than 250 MMBtu per hour and not regulated under current rule. In April 2002, the U.S. E.P.A. notified IDEM that the three boilers are large non-EGU units and are, therefore, subject to regulation under the emissions trading program. This rulemaking adds the three boilers to the emissions trading program.

Indiana's NO_x rule does not impose costs above the federal NO_x rule; however, the state distributes allowances for the emissions trading program. The draft rule allocates 261 allowances to Purdue and 740 to Ispat Inland. If the source is able to comply with the rule using less than the number of allowances allocated, the remaining allowances may be kept or sold to other sources. If a source cannot comply with the number of allowances granted by the rule, it must either add controls to reduce emissions or purchase additional allowances to comply. Purdue will likely have to purchase allowances whereas Ispat will not.

Ispat does not need to purchase allowances because it burns a cleaner fuel, blast furnace gas, and its emission rate is lower than the target emission rate. Purdue's boilers burn coal, and the emission rate is higher than the target.

The fiscal impact includes total costs to the affected sources for the initial 6-year allocation period in the current rule. The rule must be reopened prior to 2009 to evaluate and make new allocations for the post-2009 ozone season.

Overall installation and annual (ozone season) costs are estimated below:

Total costs of installation of CEMs	\$2,654,021
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Ispat Inland	\$2,100,000
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Purdue University	\$554,021 (actual)
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Total annual ozone season costs to include operation and maintenance of CEMs and purchase of allowances for compliance purposes	\$3,666,354
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Ispat Inland	\$100,000 annual or \$600,000 for six years
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Purdue would need 88 allowances * \$4,850 + \$84,259 operation and maintenance = \$511,059 per year for 6 years =	
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\$3,066,354 (It is expected that the cost per ton of NO _x allowances will decrease over time.)	
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Total costs (2003–2009)	\$6,320,375
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Ispat Inland anticipates that the cost of compliance with the NO_x rule will be offset by the sale of NO_x allowances. The sale of unused allocated allowances in 2004–2009 is estimated by Ispat Inland at \$3,288,000.

Information Sources: Janet McCabe, Assistant Commissioner, and Kathryn Watson, Office of Air Quality, Indiana Department of Environmental Management

TITLE 326 AIR POLLUTION CONTROL BOARD

FINDINGS AND DETERMINATION OF THE COMMISSIONER PURSUANT TO IC 13-14-9-7 AND SECOND NOTICE OF COMMENT PERIOD #03-68(APCB)

DEVELOPMENT OF AMENDMENTS TO RULES CONCERNING CORRECTIONS TO PREVENTION OF SIGNIFICANT DETERIORATION (PSD) REQUIREMENTS

PURPOSE OF NOTICE

The Indiana Department of Environmental Management (IDEM) has developed draft rule language for amendments to make corrections to the Prevention of Significant Deterioration (PSD) requirements identified by the United States Environmental Protection Agency (U.S. EPA) in the January 15, 2003, Federal Register (68 FR 1970). The purpose of this notice is to seek public comment on the draft rule, including suggestions for specific language to be included in the rule. IDEM seeks comment on the affected citations listed and any other provisions of Title 326 that may be affected by this rulemaking.

CITATIONS AFFECTED: 326 IAC 2-2-1; 326 IAC 2-2-6; 326 IAC 2-2-12.

AUTHORITY: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11.

STATUTORY REQUIREMENTS

IC 13-14-9-7 recognizes that under certain circumstances it may be appropriate to reduce the number of public comment periods routinely provided. In cases where the commissioner determines that the rulemaking policy alternatives available to IDEM are so limited that the notice of first public comment period would provide no substantial benefit, IDEM may forego this comment period and proceed directly to the notice of second public comment period.

If the commissioner makes the determination of limited rulemaking policy alternatives required by IC 13-14-9-7, the commissioner shall prepare written findings and include them in the second notice of public comment period published in the Indiana Register. This document constitutes the commissioner's written findings pursuant to IC 13-14-9-7.

The statute provides for this shortened rulemaking process if the commissioner determines that "the rulemaking policy alternatives available to the department are so limited that the public notice and comment period under [IC 13-14-9-3]... would provide no substantial benefit to:

- (1) the environment; or
- (2) persons to be regulated or otherwise affected by the proposed rule."

BACKGROUND

On September 30, 1980, U.S. EPA delegated to IDEM the authority to implement and enforce the federal PSD program. On April 11, 2001, IDEM submitted a request to U.S. EPA to revise its State Implementation Plan (SIP) to incorporate its PSD regulations. On February 1, 2002, IDEM submitted to U.S. EPA a revised request resolving issues identified by U.S. EPA during an informal review.

On January 15, 2003, U.S. EPA conditionally approved the rules submitted on February 1, 2002, by the State of Indiana as revisions to its SIP, for PSD provisions for attainment areas. The approval is conditioned upon Indiana correcting a minor deficiency within one year of the effective date of the federal approval. The deficiency was the inadvertent omission of "minor new source review permits" from the exemption to the definition of "major modification". Other corrections related to the Federal Register notice are also addressed in this rulemaking.

The Federal definition of "major modification" excludes from a physical change or a change in the method of operation the use by a stationary source of an alternative fuel or raw material which the source was capable of accommodating before January 1, 1975, unless the change is prohibited under any permit condition established after January 6, 1975 pursuant to 40 CFR section 52.21 or under regulations